

**IN THE UNITED STATES DISTRICT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

UNITED STATES OF AMERICA

v.

MICHAEL REYES

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NO. EP-21-CR-00053-DB

**MOTION FOR APPOINTMENT OF DEFENSE EXPERT FOR
EXAMINATION OF DEFENDANT TO DETERMINE POSSIBLE INSANITY**

TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

COMES NOW, Robert J. Perez, Attorney for the Defendant in the above styled and numbered cause, and states to the Court that he has reason to believe that Defendant may presently be suffering from a mental disease or defect that rendered him unable to comprehend his actions at the time of the alleged offense. Defendant may be suffering from a mental illness that requires an expert to assist counsel in making a proper evaluation for purposes of possible insanity or perhaps to offer evidence in mitigation of sentence.

I.

Defendant is of limited financial means and does not have the means to employ an expert to examine him and to testify as to his mental condition. Without such examination, Defendant will be unable to adequately prepare his defense. Counsel requests, under 18 U.S.C. § 4241, §4247 (b) (c), the Court order that Defendant be examined by a qualified doctor of psychiatry and/or psychology appointed by the Court. Counsel at this time is requesting that an expert be appointed for defense purposes only at this time.

II.

Counsel is unqualified to form an opinion with respect to mental illness and thus respectfully requests a psychiatric expert be appointed for defense purposes and to give counsel an opinion as to mental illness.

III.

In support of this Motion Counsel offers and would show the following. Defense Counsel has met with Defendant on numerous occasions. Counsel's observations are that Defendant has been attentive, asked intelligent questions and has been able to recount the events surrounding his detention in detail. Counsel has found Defendant to be lucid and intelligent. However, in the conversations, and in evidence that is in discovery, it is apparent that there may be issues regarding possible mental illness which can more properly be evaluated by a medical professional.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that this motion be granted and that Defendant be examined by a qualified psychiatrist and/or psychologist to determine if he is suffering from a mental illness pursuant to 18 U.S.C. § 4241 and §4247, and for issues of mitigation and or possible insanity.

Respectfully submitted,

/s/

Robert J. Perez
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Defense Counsel

Certificate of Service

I certify that a true and correct copy of the above Motion was served upon opposing counsel, United States Attorney's Office by CM/ECF transmission, in accordance with the Federal Rules of Criminal Procedure on March 4, 2021.

/s/

Robert J. Perez

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ORDER FOR MENTAL EXAMINATION

On this day the Court considered the Motion for “Motion for Mental Examination of Defendant to Determine Possible Insanity” filed in this case on March 4, 2021. Defendant’s Counsel urges the Court order an examination to determine whether pursuant to 18 U.S.C. § 4241 and §4247, Defendant is suffering from a mental illness which rendered legally insane at the time of the alleged offense..

The Court, having considered said motion as well as any response thereto filed by the United States Attorney, is of the opinion that said motion should be GRANTED. Additionally, the Court finds that the interest of justice outweighs the interest of Defendant in a public speedy trial, and that Defendant’s Counsel’s has presented sufficient grounds for the need to conduct a psychiatric/psychological evaluation of Defendant.

Hence, the Court Finds that the time from the filing of the above referenced Motion, through the date a judicial determination is made in light of the written psychiatric evaluation, is excludable within the meaning of the Speedy Trial Act, 18 U.S.C. §§ 3161 *et. seq.*

It is therefore ORDERED that the Defendant be examined under the provisions of 18 U.S.C. § 4241 and §4247 by a physician yet to be named but who is a psychologist or

psychiatrist qualified to render an opinion as to legal insanity. Said physician shall be required to establish the following specific findings to be set forth in writing (Report):

- (1) Whether or not the Defendant is presently suffering from a psychosis or mental disease or defect;
- (2) Whether or not at the time of the alleged offense, the Defendant was suffering from a mental disease or defect.

IT IS FURTHER ORDERED that said written report be filed with the Clerk of this Court who will stamp it "Received." After making the necessary docket entries, the Clerk will deliver the original report to this Court and will distribute copies of same to the United States Attorney, Defense Counsel, and to the United States Probation Office.

A certified copy of this Order shall be furnished by the Clerk of this Court.

SIGNED AND ENTERED this _____ day of _____, 2021.

HONORABLE DAVID BRIONES
UNITED STATES DISTRICT JUDGE